IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6383 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NARENDRA BABUBHAI SENMA RAVAT

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

VM PANCHOLI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 17/02/2000

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner challenges the order of preventive detention dated 17th June, 1999, made by the Commissioner of Police, Ahmedabad City, under the powers conferred

upon him by section 3 (1) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

Along with the order of detention, the petitioner had been served with the grounds of detention also. The grounds of detention suggest that four offences punishable under Chapters XVI & XVII of the IPC have been registered against the petitioner during the months of May 1998 to the month of March 1999. In the three offences registered in the year 1998, the chargesheetss have been filed. The one registered in the year 1999 was pending investigation. Moreover, some two persons made statements in respect of the incidents that occurred on 1st June, 1999 and 28th May, 1999 respectively. In view of the above evidence, the petitioner is held to be a 'habitual offender', and thereby a 'dangerous person' within the meaning of section 2 (c) of the Act and his activities are found to be prejudicial to the maintenance of public order.

Amongst the other grounds, it is contended that the petitioner had, on 28th June, 1999, made a representation to the Commissioner of Police which has not been considered till the date. In answer to the contention, the Detaining Authority has made an affidavit. It is submitted that the representation referred to by the petitioner was not received by him and the question of considering the same did not arise. In reply to this averment, Mr. Prajapati has produced the receipt of the acknowledgment by the detenu. It appears that the said representation was sent by the Regd.Post.A.D. The acknowledgment-slip has been signed by some officer (probably an Inward Clerk) in the office of the Commissioner of Police. It, therefore, appears that the representation was duly delivered in the office of the Commissioner of Police. However, it may not have reached the hands of the Commissioner of Police. If that be so, it is negligence on the part of the office of the Commissioner of Police, which has adversely affected the petitioner's right conferred by Article 22 (5) of the Constitution of India. The action of the respondents in not considering the representation made by the petitioner is, thus, un-Constitutional and the continued detention of the petitioner is null and void.

Petition is allowed. The impugned order dated 17th June, 1999, is quashed and set aside. The petitioner, unless is required to be detained in some other case, be released forthwith. Rule is made absolute. There shall be no order as to costs.

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JOSH